

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LABORERS' PENSION FUND and)	
LABORERS' WELFARE FUND OF THE)	
HEALTH AND WELFARE DEPARTMENT)	
OF THE CONSTRUCTION AND GENERAL)	
LABORERS' DISTRICT COUNCIL OF)	
CHICAGO AND VICINITY, JAMES S.)	
JORGENSEN,)	
)	
Plaintiffs,)	Case No. 08 C763
)	
v.)	
)	Judge Gettleman
)	
DIXON INTERIORS, INC.,)	
)	
Defendant.)	

PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT AND DAMAGES

Plaintiffs, Laborers' Pension Fund and Laborers' Welfare Fund of the Health and Welfare Department of the Construction and General Laborers' District Council of Chicago and Vicinity (collectively the "Funds"), and James S. Jorgensen, by their attorney, state:

1. On February 4, 2008, plaintiffs filed the instant lawsuit under the Employee Retirement Income Security Act, 29 U.S.C. § 1001 *et seq.*, and under the Labor Management Relations Act, 29 U.S.C. § 185, seeking unpaid contributions owed to the plaintiffs, the Laborers' Health and Welfare and Pension Funds (hereinafter the "Funds") for the periods from July 1, 2005 through March 31, 2007, May 2007 and October 2007 to the present.

2. On February 29, 2008, plaintiffs' process server, Philip P. Ducar, served the office of Dixon Interiors, Inc.'s registered agent, William Mortimer at 7630 S. County Line Road, Unit 7, Burr Ridge, Illinois 60527. (Exhibit 1).

3. More than twenty days have passed since the service of the summons and the complaint and the defendant has failed to plead or otherwise defend as required by the Federal Rules of Civil Procedure. A copy of this motion will be sent to registered agent, William Mortimer, 7630 S. County Line Road, Unit 7, Burr Ridge, IL 60527.

4. The Funds' designated auditors from Bansley and Kiener, L.L.P., conducted an audit for the period from June 1, 2006 to May 31, 2007. As established by the Funds' Field Representative, Michael Christopher, the auditors reviewed the Company's records reflecting contributions due to the Funds, and based on that review Christopher testifies that the audit report reflects unpaid principal contributions of \$42,763.90 owed to the Welfare, Pension, Training Funds and for Union dues. (See, Exhibit 2.) A copy of the Bansley report is attached to Mr. Christopher's affidavit.

5. According to the collective bargaining agreement and trust agreements, liquidated damages are owed for unpaid contributions in the amount of 10% (ten percent) for the period before June 1, 2007 and in the amount of 20% of the unpaid contribution for the period after June 1, 2007. Interest is owed accruing at the prime rate as charged by the Chase Bank plus two percent. As established by Mr. Christopher's affidavit, liquidated damages are owed in the amount of \$4,276.39. and interest is owed in the amount of \$1,673.89 through April 11, 2008.

6. Payment was made for the report month of July 2007 but the check was returned for insufficient funds in the amount of \$19,605.25. Past due penalties owed are owed in the amount of \$3,858.86.

7. The costs of this audit billed to the Funds were \$818.41. In addition, this Company incurred penalties to the Funds covering the reporting period from October 2006 through December

2007, in the amount of \$21,193.80. (See Christopher Affidavit ¶ 7).

8. According to the collective bargaining agreement, the Company is also required to obtain and maintain a surety bond to guaranty wages and fringe benefit contributions. In addition, all contributing employers are responsible to pay contributions to the Funds by the 10th day of the month after the month in which the work was performed.

9. Plaintiffs are entitled to attorneys' fees and costs under ERISA, 29 U.S.C. § 1132(g)(2)(D). An affidavit of Karen I. Engelhardt establishes the amount of attorneys' fees incurred in this matter are \$1,195.00, and \$410.00 in costs (See, Exhibit 3.).

WHEREFORE, plaintiffs request entry of a judgment against Dixon Interiors, Inc., in a total amount of \$ 85,838.71, and an order requiring defendant to pay current delinquencies as they become due.

Respectfully submitted,

/s/ Karen I. Engelhardt
One of Plaintiffs' counsel

ALLISON, SLUTSKY & KENNEDY, P.C.,
230 W. Monroe Street Suite 2600
Chicago, IL 60606
(312) 364-9400
ARDC # 03128850

April 15, 2008

